

**REMARKS**

Claims 44-50, 54, 55, and 58-61 were pending. No claims were previously withdrawn from consideration, and claims 1-43, 51-53, 56, 57, and 62-74 had been previously cancelled. By this response, no claims have been amended, claim 48 has been cancelled without prejudice, and no claims have been added. Cancellation or amendment of any claim is not to be considered a dedication to the public of any subject matter.

Thus, claims 44-47, 49-50, 54, 55, and 58-61 are currently under consideration.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 112**

Claim 48 stands rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim allegedly contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

This application is a divisional of parent application 09/693,272. The subject matter directed to the language of "porous coatings comprising osteoconductive substances" allegedly finds no clear support in applicant's specification. The specification allegedly provides disclosure supporting osteoinductive substances but not osteoconductive substances. Claim 48 is cancelled herein, making this rejection moot.

**CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

Claim 48 stands rejected under 35 U.S.C. §102(b) as being anticipated by U.S. 6,565,605 to Goble et al. Claim 48 is cancelled herein, making this rejection moot.

Response dated: November 25, 2009  
App. No. 10/615,727; Filed: July 9, 2003  
Response to Office Action of May 26, 2009

**ALLOWABLE SUBJECT MATTER**

Applicants acknowledge with appreciation that the Examiner has indicated claims 44-47, 49, 50, 54, 55, and 58-61 are allowable. Accordingly, all currently pending claims are now allowable.

**COMMON OWNERSHIP**

This application is now commonly owned by Facet Solutions Inc, with the patent that this application's claims are copied from (U.S. Patent 6,565,605). The assignment of this application was recorded on November 24, 2009, under Reel/Frame 023567/0403.

Response dated: November 25, 2009  
App. No. 10/615,727; Filed: July 9, 2003  
Response to Office Action of May 26, 2009

**CONCLUSION**

Applicants respectfully request that the Examiner expedite the prosecution of this patent application to issuance. If the Patent Office determines that an extension of time and/or other relief is required, Applicants petition for any required relief including extension of time, and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 50-4050**, referencing 10002-701.401. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Respectfully submitted,

Date: 11/25/09

By:

  
Douglas C. Limbach  
Registration No. 35,249

SHAY GLENN LLP  
2755 CAMPUS DRIVE, SUITE 210  
SAN MATEO, CA 94403  
TELEPHONE: 650.287.2163  
FACSIMILE: 650.212.7562